

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 CNA INSURANCE COMPANY LIMITED,

10 Plaintiff,

11 v.

12 EXPEDITORS INTERNATIONAL OF
WASHINGTON, INC. d/b/a EXPEDITORS
INTERNATIONAL OCEAN, *et al.*,

13 Defendants.
14

CASE NO. C18-932RSM

ORDER GRANTING MOTION TO
COMPEL

15
16 **I. INTRODUCTION**

17 This matter is before the Court on Expeditors Defendants' Motion to Compel Discovery
18 Responses from Plaintiff. Dkt. #21. Defendants Expeditors International of Washington, Inc.
19 and Expeditors International Ocean, Inc. ("Expeditors") seek an order compelling Plaintiff to
20 respond to their discovery requests and awarding attorneys' fees and costs. *Id.* Plaintiff has not
21 substantively responded. Dkt. #23. For the reasons below, Expeditors' Motion is granted.

22 **II. BACKGROUND**

23 Plaintiff filed this action on June 25, 2018. Dkt. #1. Expeditors indicates that they served
24 their First Interrogatories and Requests for Production on Plaintiff on February 13, 2019.
25 Dkt. #22 at ¶ 22. Expeditors' certificate of service, however, is unclear as to whether service
26 occurred on February 13th or February 18th. *Id.* at p.19. Giving Plaintiff the benefit of the doubt

1 and concluding that discovery was served no later than February 18, 2019, Plaintiff's responses
2 were no later than March 25, 2019. FED. R. CIV. P. 33(b)(2); FED. R. CIV. P. 34(b)(2)(A). On
3 March 26, 2019, counsel for Expeditors and counsel for Plaintiff held a telephone conference to
4 discuss the outstanding discovery. Dkt. #22 at ¶ 5. Plaintiff's counsel was not able to provide a
5 date certain by which Expeditors could expect responses to their discovery requests. *Id.*
6 Expeditors subsequently filed this Motion.

7
8 Plaintiff's response indicates that counsel of record is "local counsel for plaintiff acting
9 in this case on instructions from New York counsel." Dkt. #23-1 at ¶ 2. Counsel of record further
10 explains that "he has had no direct contact with plaintiff in this case but has worked before with
11 New York counsel." *Id.* at ¶¶ 2–3. Counsel previously forwarded Expeditors' discovery to New
12 York for handling and spoke to New York counsel as recently as April 8, 2019 but had no further
13 contact as of April 15, 2019. *Id.* at ¶¶ 3–4. Most recently, Plaintiff's counsel had heard that New
14 York counsel's contact with Plaintiff had been disrupted and that New York counsel was
15 attempting to reestablish communication. *Id.* at ¶ 3. Instead of opposing Expeditors' Motion,
16 Plaintiff requests a two-week extension to April 29, 2019. Dkt. #23 at 2.

18 III. DISCUSSION

19 If requested discovery is not answered, the requesting party may move for an order
20 compelling such discovery. FED. R. CIV. P. 37(a)(1). The party that resists discovery has the
21 burden to show why the discovery request should be denied. *Blankenship v. Hearst Corp.*, 519
22 F.2d 418, 429 (9th Cir. 1975). If a motion to compel is granted, the movant may be entitled to
23 recover reasonable expenses incurred in making the motion, including attorney's fees. FED. R.
24 Civ. P. 37(a)(5)(A).

1 Expeditors are entitled to responses to their discovery and Plaintiff does not argue
2 otherwise. Plaintiff requests additional time. But even the requested extension has expired, and
3 the parties have provided no indication that discovery responses were served. Accordingly,
4 Expeditors' Motion will be granted, and Expeditors will be awarded their reasonable fees and
5 expenses incurred in bringing this Motion.

6 IV. CONCLUSION

7 Having reviewed Expeditors' Motion, the relevant briefing, and the remainder of the
8 record, the Court finds and ORDERS:
9

- 10 1. Expeditors Defendants' Motion to Compel Discovery Responses from Plaintiff
11 (Dkt. #21) is GRANTED.
- 12 2. Plaintiff shall accomplish serving responses to the outstanding discovery **no later than**
13 **fourteen (14) days from the date of this Order. Failure to comply with this Order**
14 **may result in sanctions being imposed, including dismissal of this action.**
- 15 3. Expeditors' request for attorneys' fees and costs is GRANTED. Expeditors may file a
16 properly supported request for fees and costs **no later than fourteen (14) days from the**
17 **date of this Order and no longer than four (4) pages.** Any request shall be noted for
18 the second Friday after it is filed. No later than the Monday before the noting date,
19 Plaintiff may file a Response, no longer than four (4) pages, addressing only the
20 reasonableness of the fees and costs requested. No Reply is permitted.
21

22 DATED this 6 day of May 2019.
23

24 

25 RICARDO S. MARTINEZ
26 CHIEF UNITED STATES DISTRICT JUDGE